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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
) MM Docket No. 00-240
Amendment of Section 73.622(b)) RM-9793
Table of Allotments)
Digital Television Broadcast Stations)
(Charlottesville, Virginia))

To: The Commission

**COMMENTS OF SHENANDOAH VALLEY EDUCATIONAL TELEVISION
CORPORATION**

In this proceeding¹ Shenandoah Valley² supports the Commission's proposal to add a DTV Channel *46 allotment to the Table of Allotments for assignment to Central Virginia Educational Television Corporation ("CVETC") but, in addition, urges that the Commission retain the existing DTV Channel *14 allotment for Charlottesville.³ Shenandoah Valley previously had requested this modification to CVETC's proposed rulemaking⁴ because access to this allotment is essential to the viability of the continued transition to digital service not only to the Charlottesville area but also to the under-served and rural areas of Shenandoah Valley and

¹ See Notice of Proposed Rulemaking, In the Matter of Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Charlottesville, Virginia), MM Docket No. 00-0240; RM-9793 (released November 28, 2000)(hereinafter, "NPRM").

² Shenandoah Valley Educational Television Corporation ("Shenandoah Valley").

³ See Support for Proposed Rulemaking and Proposed Modification, Filed by SVETC on June 16, 2000, responding to the Petition for Rulemaking filed by CVETC on November 5, 1999 (hereinafter "Shenandoah Support").

⁴ See Petition for Rulemaking and Request for Expedited Action, In the Matter of Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Charlottesville, Virginia), MM Docket No. 00-0240; RM-9793 (filed November 5, 1999) (hereinafter "Petition").

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Appalachia surrounding it.⁵ Unless the Commission grants the requested relief, this will be impossible because no other means are available for Shenandoah Valley or another noncommercial applicant to bring digital service to the Charlottesville area and the surrounding areas.

The Commission stated that did not incorporate Shenandoah Valley's proposal to retain DTV Channel *14 in the NPRM, because it believed that combining that proposal with CVETC's proposal to add DTV Channel *46 would impose complications on the processing of the latter.⁶ The Commission feared that retaining DTV Channel *14 in the Table of Allotments would mean that CVETC's request for DTV Channel *46 would be jeopardized because it would have to be treated as a request for a new allotment rather than a substitution for an existing allotment.

But this treatment of the DTV Channel *46 proposal would be problematic only if DTV Channel *46 failed to meet the requirements for new allotments - the only difference being that new allotments must meet the mileage separation requirements of Section 73.623(d), and not merely the interference limitations of Section 73.623(c). CVETC's Engineering Statement submitted with its Petition demonstrates that DTV Channel *46 meets both sets of requirements. For this reason, the rationale in the NPRM that it is necessary to position the DTV Channel *46 proposal as an allotment substitution rather than a new allotment is unjustified. In turn, this

⁵ For example, Shenandoah Valley has illustrated previously the valuable connection between its Charlottesville service and its service to the surrounding underserved areas, hereby incorporates in these comments its positions set forth in Shenandoah Support.

⁶ See NPRM ¶7. Shenandoah Valley believes that the discussion in paragraphs 5 and 6 of the NPRM reflects a misunderstanding of Shenandoah Valley's posture in filing its comments. Shenandoah Valley does not believe that as a displaced translator it is entitled to the requested relief, but rather, comes to the Commission as a potential applicant for a full power allotment.

makes it possible for the Commission to grant the relief requested by Shenandoah Valley without any prejudice or delay to CVETC.

The NPRM (§ 8) implies that Shenandoah Valley does not need to have DTV Channel *14 retained in the Table of Allotments because it could seek to add this channel as a new allotment after this proceeding is concluded. But this is not the case: a new DTV Channel *14 allotment, as opposed to one that has been retained, would have to meet mileage separation requirements, not merely the no-interference requirement that applies to existing allotments. And, absent an extraordinary waiver by the Commission, this would not be possible. In contrast, under the no-interference test applicable to existing allotments, Shenandoah Valley would operate DTV Channel *14 so that it would cause less than .1% interference to WTMW in Arlington, which is well within the limitations set forth in Section 73.623(c) and substantially less than the interference that CVETC's Channel 14 station would have caused to WTMW.

It would be highly inequitable to Shenandoah Valley and all potential petitioners for a full power allotment in Charlottesville and clearly at odds with the public interest to essentially replace the only channel (DTV Channel *46) which could be added to the Table of Allotments in compliance with the Commission's rules with a channel (DTV Channel *14) which almost certainly could not be added as a new allotment to the Table of Allotments. The only equitable solution is to retain DTV Channel *14 as a full power allotment in Charlottesville and to add DTV Channel *46 as a new allotment in the Table.

Because this situation is highly unusual, it poses no danger of future petitioners clamoring for new allotments on similar grounds. Indeed, Shenandoah Valley has for several years aggressively pursued options to upgrade to a full power station in Charlottesville, but was unable to do so given its location within a "freeze" area. And the additional interference to third

parties would be negligible, and in fact reduced since Shenandoah Valley would operate on DTV Channel *14 below the interference that would have been caused by CVETC's operation of this channel.⁷

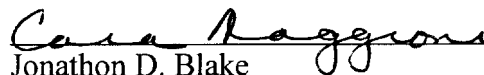
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The NPRM got it backwards. It presumed that CVETC could obtain DTV Channel *46 only if it was treated as a channel substitution proposal and that Shenandoah Valley could obtain DTV Channel *14 as a new allotment. But in fact, CVETC can obtain DTV Channel *46 as a new allotment and the only way Shenandoah Valley can obtain DTV Channel *14 is as a retained existing allotment. Accordingly, Shenandoah Valley requests that the Commission grant CVETC's petition for rulemaking and retain the allotment for DTV Channel *14 in Charlottesville, Virginia.

Respectfully Submitted,



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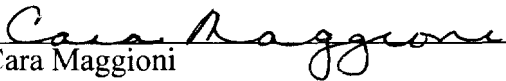
January 19, 2001

⁷ See Shenandoah Valley Support, n.4; see also Petition, ¶2.

CERTIFICATE OF SERVICE

I, Cara Maggioni, hereby certify that a true and correct copy of the foregoing Comments was this January 19, 2001 sent by first-class mail, postage prepaid to the following:

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